

DRAFT OF LETTER TO THE
SPEAKER OF THE HOUSE OF REPRESENTATIVES TRANSMITTING
A BILL FOR THE CONTINUATION OF AUTHORITY DEPENDENT UPON
WAR, IN ACCORDANCE WITH THE NEEDS OF ALL EXECUTIVE AGENCIES

My dear Mr. Speaker:

I transmit herewith with a view to its introduction in the House of Representatives a draft bill designed to preserve, notwithstanding the impending termination of the state of war with Japan, powers which the United States Government must continue to exercise in the present disturbed state of world affairs.

A bill of this nature is necessitated by the fact that a large number of powers which this Government is now exercising depend for their continuance on the existence of a state of war. The only state of war still existing between this country and others is the state of war with Japan. Upon the ratification and coming into force of the treaty of peace with Japan that state of war will end, and the authority to exercise powers dependent for their existence on a state of war will thereupon cease in the absence of provision otherwise by the Congress. The termination of the state of war with Japan is necessary for reasons with which the Congress is entirely familiar. It is equally necessary that it should not have internal legal consequences which would impair the security of the country. The purpose of the enclosed bill is to preserve that security by averting such consequences.

The bill meets the needs not only of the Department of Defense but of all other agencies of the Executive Branch of the Government. The coordination necessary for this comprehensive coverage was effected by the Bureau of the Budget, under whose direction the bill was prepared.

In order to ensure the continuation of war-dependent powers essential to national security, it has been assumed in the drafting of this bill that the military action in Korea does not constitute a state of war within the meaning of the statutes referred to in the bill; that statutes dependent for their operativeness on the existence of hostilities or of the imminence of

war are not now operative; and that when the state of war with Japan is terminated, the emergencies proclaimed by the President on September 8, 1939 and May 27, 1941, will also automatically terminate, by reason of the terms in which those emergencies were originally proclaimed. These assumptions have been made so as to ensure that no doubt can arise as to the continuation of powers considered necessary.

The bill is not a blanket extension of all existing authority dependent upon a state of war. It is, on the contrary, a specific extension of each war-dependent authority which, in the view of the Executive Branch, will still be required. The statutes conferring each such authority are referred to individually in the bill. Statutes not referred to in the bill are not affected by it.

The drafting of a bill in this form has necessitated a complete review by the Executive Branch of all statutes so written that their continued operativeness will be affected by a termination of a state of war. This study was directed by the Bureau of the Budget and was made in the following manner: In October 1950, the Bureau of the Budget had asked the agencies of the Executive Branch of the Government to inform it of statutes affecting their operations which were dependent upon the existence of a state of war or a state of emergency, together with their views as to which of these statutes should be continued after the termination of the state of war or emergency. The replies of the agencies were consolidated by the Bureau of the Budget into a single document. A list of statutes dependent upon the existence of the present state of war was then prepared by the Bureau of the Budget independently. This was done by starting with Senate Document No. 42, 80th Congress, first session, entitled "Termination of War Controls - Report Prepared by the Department of Justice on Provisions of Federal Statutes Affected by the Termination of Hostilities, the War, or Emergency," as annotated up to April 1, 1948 by the Department of Justice, which in turn was based on Library of Congress indexing procedures and earlier extensive studies by the Department of Justice. This Department of Justice document was revised in the Bureau of the Budget by eliminating statutes no longer

operative, adding amendments through 1950, and adding statutes contained in a list as of July 10, 1951, prepared by the Department of the Army. The result was then compared with the consolidated replies of all the executive agencies to the Bureau of the Budget's 1950 inquiry and from the two a single list was prepared. This was circulated to all the agencies of the Executive Branch for further check and revision, for the addition of any other laws whether old or recent and for a further statement of views as to which statutes should be continued. The bill submitted herewith is based on the replies to this inquiry.

As was stated at the outset of this letter, the attached bill is designed to serve the limited purpose of preserving only those powers considered necessary for the security of the United States which would be affected by the termination of the state of war with Japan. It is not a reenactment of all statutes of a wartime nature which have ceased to be operative, nor does it enact any legislation of new substance. There are therefore a number of categories of statutes which are not revitalized or reenacted by it. Among these categories are the following:

- (a) Statutes conferring powers which have already expired by their own terms because of a fixed expiration date contained in them.
- (b) Statutes which were repealed by the Act of July 25, 1947, ch. 327, Public Law 239, 80th Congress, first session, 61 Stat. 449. (The effect of this statute was set forth in full detail in Senate report 339, part 2, 80th Congress, first session.)
- (c) Statutes as to which the act of July 25, 1947, Public Law 239, terminated the states of war previously declared by Congress and the national emergencies proclaimed by the President on September 8, 1939 and May 27, 1941.
- (d) Statutes as to which hostilities were terminated by the President's proclamation Number 2714 of December 31, 1946, proclaiming that hostilities in World War II had terminated on that day.

The fact that the foregoing and other categories of statutes which conferred war powers will not be reactivated by the proposed bill has been pointed out by the Bureau of the Budget to the several agencies of the Government so they may consider whether any further legislation, not

necessitated by the termination of the state of war with Japan, is required for their purposes.

I am enclosing for Congress' information a list of all the laws discovered in the above-mentioned survey that would be affected by a termination of the state of war. On this list is indicated the laws which are included in this bill and those which the agencies feel may safely and properly be permitted to expire or be suspended.

This letter is written with the approval of the Bureau of the Budget.

Sincerely yours,